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10/585,255	07/05/2006	Tetsujiro Kondo	291587US8PCT	6069

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EXAMINER	
HEIDEMANN, JASON E	

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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AUG 04 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
KONDO, TETSUJIRO et al
Application No. 10/585,255
Filed: July 05, 2006
For: **IMAGE PROCESSING DEVICE AND
METHOD, RECORDING MEDIUM, AND
PROGRAM FOR TRACKING A DESIRED
POINT IN A MOVING IMAGE**

DECISION ON REQUEST
FOR CONSIDERATION OF IDS

This is a decision on the petition, filed June 25, 2010, under 37 CFR 1.181 to consider the references cited in the Information Disclosure Statement filed July 05, 2006.

Petitioner states,

"The references in the IDS are discussed in an English language International Search Report submitted with the IDS. Thus, in accordance with MPEP § 609.04(a)(iii), an English language foreign Office Action/Search Report satisfies the requirement for concise explanation of the relevance of the foreign language references, as required under 37 C.F.R. § 1.98. Specifically, the above cited portion of the MPEP states that "where the information listed is not in the English language, but was cited in a Search Report or other action by a Foreign Patent Office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the Search Report or action which indicates the degree of relevance found by the foreign office."

REGULATIONS AND PRACTICE:

§ 1.97 Filing of information disclosure statement. States in part:

- (a) In order for an applicant for a patent or for a reissue of a patent to have an information disclosure statement in compliance with § 1.98 considered by the Office during the pendency of the application, the information disclosure statement must satisfy one of paragraphs (b), (c), or (d) of this section.
- (b) An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:
 - (1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);
 - (2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;
 - (3) Before the mailing of a first Office action on the merits; or

(4) Before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.

§ 1.98 Content of information disclosure statement. States in part:

(a) Any information disclosure statement filed under § 1.97 shall include the items listed in paragraphs (a)(1), (a)(2) and (a)(3) of this section.

(1) A list of all patents, publications, applications, or other information submitted for consideration by the Office. U.S. patents and U.S. patent application publications must be listed in a section separately from citations of other documents. Each page of the list must include:

(i) The application number of the application in which the information disclosure statement is being submitted;

(ii) A column that provides a space, next to each document to be considered, for the examiner's initials; and

(iii) A heading that clearly indicates that the list is an information disclosure statement.

(2) A legible copy of:

(i) Each foreign patent;

(ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;

(iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and

(iv) All other information or that portion which caused it to be listed.

(3)

(i) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein.

(ii) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c).

MPEP 609.04(a) [R-7] Content Requirements for an Information Disclosure Statement States in part:

III. CONCISE EXPLANATION OF RELEVANCE FOR NON-ENGLISH LANGUAGE INFORMATION

Where the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an "X", "Y", or "A" indication on a search report.

OPINION

A review of the application file reveals that a Non final office action along with an a marked up PTO-1449 document, from IDS submitted July 05, 2006 by applicant, were mailed for the above-identified application on January 07, 2010. The PTO-1449 document indicated it was considered by the examiner on December 30, 2009. Documents AO, AP, and AQ were lined through; document AR was initialed; and document AW was left blank. There was no explanation why documents AO, AP, and AQ were lined through or why document AW was left blank.

In accordance with 37 CFR 1.97 (b)(1) and (3) the file record shows the IDS was timely filed. In accordance with 37 CFR 1.98(a)(1) and (2) the file record shows a list of all references for consideration was filed along with a legible copy of each cited reference. In accordance with MPEP 609.04(a)(III) the file record shows the documents AO, AP, and AQ that were lined through in the PTO 1449 were listed in an English -language version of the search report by a counter part foreign application which indicates the degree of relevance found by the foreign application. This indicates a concise explanation of relevance in accordance with 37 CFR 1.98(a)(3) has also been met.

Therefore, the petition is GRANTED.

The application file is being forwarded to the examiner to consider the documents listed in the PTO 1449 that were lined through (documents AO, AP, AQ) and left blank (document AW) in the Information Disclosure Statement filed on July 05, 2006. If the examiner continues to believe the references should not be considered, then an explanation of the reason in accordance with 37 CFR 1.97, 37 CFR 1.98, and MPEP 609.04(a) must be provided.



Mark R. Powell, Director
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Communications